

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Bernardo Gutierrez	Team: Team # 5	CCRB Case #: 201106011	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 05/09/2011 8:30 AM	Location of Incident: § 87(2)(b)	Precinct: 79	18 Mo. SOL 11/9/2012	EO SOL 11/9/2012	
Date/Time CV Reported Wed, 05/11/2011 12:06 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/11/2011 12:06 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Keith Chatterton	07323	925067	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Valerie Santos	01466	931161	079 PCT
2. POM Kevin Mcleish	09951	928758	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Keith Chatterton	Discourtesy: Officer Keith Chatterton spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
B.POM Keith Chatterton	Off. Language: Officer Keith Chatterton made remarks to § 87(2)(b) based upon race.	§ 87(2)(b)
C.POM Keith Chatterton	Abuse: Officer Keith Chatterton threatened to notify Administration for Children's Services.	§ 87(2)(b)
D.POM Keith Chatterton	Force: Officer Keith Chatterton used physical force against § 87(2)(b)	§ 87(2)(b)

## Case Summary

§ 87(2)(b) filed this complaint with CCRB by telephone on May 10, 2011 (encl. 6A-6B). On May 9, 2011, § 87(2)(b) interacted with PO Keith Chatterton and PO Kevin McLeish. The following allegations resulted:

- **Allegation A- Discourtesy:** PO Keith Chatterton spoke obscenely and/or rudely to § 87(2)(b) § 87(2)(g)
- **Allegation B- Offensive Language:** PO Keith Chatterton made remarks to § 87(2)(b) based upon race. § 87(2)(g)
- **Allegation C- Abuse of Authority:** PO Keith Chatterton threatened to notify Administration for Children's Services. § 87(2)(g)
- **Allegation D- Force:** PO Keith Chatterton used physical force against § 87(2)(b) § 87(2)(g)

## Results of Investigation

### Civilian Statements

#### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *at the time of the incident, is a black female, who stands 5'6" tall, weighs 160 pounds and has black hair and brown eyes.* § 87(2)(b)

#### CCRB Testimony

§ 87(2)(b) filed this complaint with the CCRB via telephone on May 10, 2011 (encl. 6A-6B). § 87(2)(b) provided telephone statements to the CCRB on May 12 and June 8, 2011 (encl. 8 and 10). On May 24, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 9A-9E). § 87(2)(g)

On May 9, 2011, at approximately 8:25 a.m., two police officers responded to § 87(2)(b) residence, § 87(2)(b) in Brooklyn after being called to the location by § 87(2)(b) foster sister, § 87(2)(b). § 87(2)(b) and § 87(2)(b) had been involved in a verbal dispute earlier in the day and § 87(2)(b) alleged that § 87(2)(b) assaulted her. § 87(2)(b) was not aware that § 87(2)(b) called the police. The investigation identified the responding officers as PO Kevin McLeish and PO Keith Chatterton.

PO McLeish told § 87(2)(b) that she would be arrested for a cut that her foster sister, § 87(2)(b) had sustained on one of her hands. Both officers went outside and returned to § 87(2)(b) § 87(2)(b) stating that she would not be arrested after § 87(2)(b) stated that she had cut her hand on a banister after being pulled by § 87(2)(b). PO McLeish and PO Chatterton returned approximately fifteen minutes later and PO McLeish informed § 87(2)(b) that she was, in fact going to be arrested. PO McLeish asked § 87(2)(b) to get dressed and she walked towards her bedroom. She left the door to her residence open and both officers entered.

After getting dressed, § 87(2)(b) entered the living room and willingly placed her hands behind her back with PO McLeish standing behind her and PO Chatterton standing in front of her. PO Chatterton pulled § 87(2)(b) right arm and shook it while standing in close proximity to her. § 87(2)(b) asked PO Chatterton why he performed this action and PO Chatterton said, “Don’t fuck with me.” PO McLeish placed a handcuff around § 87(2)(b) left wrist. § 87(2)(b) told PO Chatterton, “Get out of my face” and he responded, “Who the fuck do you think you’re talking to?”

PO Chatterton reached behind § 87(2)(b) placed a handcuff around her right wrist and said, “Get this black bitch out of here.” PO Chatterton pulled the loose end of his set of handcuffs towards him. PO Chatterton whispered, “I should call ACS and get your fucking kids taken away.” PO Chatterton wrung the handcuff, turning the end that he was holding back in the direction of PO McLeish. § 87(2)(b) twisted her right arm in the direction PO Chatterton was turning it to avoid pain. PO Chatterton held § 87(2)(b) by her right hand and right shoulder and pushed her face down onto a couch. § 87(2)(b) felt one of PO Chatterton’s knuckles nudge her under her right eye. § 87(2)(b) said the nudge was not a punch, but that the action was intentional.

Approximately six male officers and a female officer entered the apartment while shining their flashlights. She could not recall the physical appearance of any of the other officers besides the female, who she described as a Hispanic female with dark shoulder-length hair, a slim build, in her late 20’s. The investigation identified this officer as Sgt. Valerie Santos. PO McLeish and PO Chatterton linked both handcuffs and § 87(2)(b) was transported to the 79<sup>th</sup> Precinct stationhouse, where photographs were taken of her injuries. § 87(2)(b) asked to go to the hospital and was transported to § 87(2)(b). § 87(2)(b) asked to leave the hospital after three hours without receiving treatment.

§ 87(2)(b) sustained redness under her right eye, caused by PO Chatterton making contact with this area with his right hand. She sustained bruising on the area in between her right shoulder and chest, caused when PO Chatterton held her, as well as bruising on her wrists, caused by the handcuffs.

### **Statement to IAB**

§ 87(2)(b) filed a complaint with IAB by telephone regarding the incident on May 11, 2011, where it received Log number 11-21454 (7A-7C). IAB forwarded the complaint to CCRB on May 18, 2011. According to the IAB intake CD, on May 9, 2011, at approximately 11:00 a.m., § 87(2)(b) foster sister called police and falsely claimed that § 87(2)(b) had cut her hand. § 87(2)(g)

§ 87(2)(b) She described PO Chatterton as having struck her with a closed fist under her right eye while describing the action as a “nudge” in her CCRB statement. She did not mention PO Chatterton asking her, “Who the fuck do you think you’re talking to?”

### **NYPD Statements:**

#### **Subject Officer: PO KEITH CHATTERTON**

- *PO Chatterton, § 87(2)(b) old at the time of the incident, is a white male who is 6’2” tall, 200 pounds, with brown hair and blue eyes.*
- *On May 9, 2011, PO Chatterton was assigned to patrol of Sectors C and N in uniform from the hours of 7:05 a.m. to 3:40 p.m. PO Chatterton was accompanied by PO Kevin McLeish and was assigned to marked police vehicle 1908.*

### **Memo Book**

At 8:25 a.m., PO Chatterton received a call regarding an assault in progress at § 87(2)(b). At 9:07 a.m., PO Chatterton's memo book was signed by Lt. Craig Demaio. At 9:26 a.m., PO McLeish arrested § 87(2)(b). § 87(2)(b) resisted arrest by refusing to be handcuffed. PO McLeish and PO Chatterton used two handcuffs and called for backup. Sgt. Santos was listed as being at the scene. PO Chatterton placed § 87(2)(b) on a couch in the living room. As she was being escorted from the apartment, § 87(2)(b) fell to the ground. PO Chatterton noted that he called § 87(2)(b) a "bitch" but not a "black bitch" as she later alleged at the stationhouse. § 87(2)(b) refused medical attention at the stationhouse and claimed that PO Chatterton had punched her in the face. Photographs were taken of § 87(2)(b) by Sgt. James Phelan and she was taken to the hospital for treatment (encl. 13A-13D).

### **CCRB Testimony**

On June 30, 2011, PO Chatterton was interviewed at the CCRB (encl. 14A-14C). On May 9, 2011, at approximately 8:25 a.m., PO Chatterton received an assault in progress call at § 87(2)(b). There were no other officers at the location upon his and PO McLeish's arrival. PO Chatterton spoke to § 87(2)(b) who alleged that she had been assaulted by her foster sister, § 87(2)(b). § 87(2)(b) sustained a cut on her hand that required medical attention.

PO Chatterton and PO McLeish went to speak with § 87(2)(b). The officers informed her that she would have to be placed under arrest. PO McLeish called for a sergeant to respond to the location in order to confirm the arrest. Sgt. Valerie Santos arrived and instructed the officers to arrest § 87(2)(b). PO Chatterton noticed that there were two children under the age of two in the apartment. PO Chatterton told § 87(2)(b) that ACS would take the children into custody if no one could be found to watch them. PO Chatterton did not say, "I should call ACS and get your fucking kids taken away" and did not hear any officer make this statement. A female tenant of the residence took the children away.

As § 87(2)(b) spoke to PO McLeish, PO Chatterton walked behind her and placed a handcuff around one of her arms. § 87(2)(b) began to push PO Chatterton and PO McLeish away with her free arm and refused to be placed in handcuffs. PO Chatterton brought § 87(2)(b) to a couch approximately five feet away and attempted to use the couch as leverage in order to handcuff her free arm. § 87(2)(b) fell onto the couch as she was resisting and PO Chatterton fell on top of her with PO McLeish falling on top of PO Chatterton. § 87(2)(b) face hit the side of the couch when she fell and PO Chatterton believed that this was the manner in which she sustained a bruise that he later noticed on one of her cheeks. PO Chatterton did not punch § 87(2)(b) in the face and did not say if he made any physical contact with her face. As PO Chatterton struggled to place her under arrest, he said, "Stop being a bitch" and told her to provide her hands. PO Chatterton made this statement out of frustration because he was not getting compliance from § 87(2)(b).

PO Chatterton did not call § 87(2)(b) a "black bitch" and did not use any sort of language that referred to § 87(2)(b) race or ethnicity. PO Chatterton initially stated that he did not use any other profanity towards § 87(2)(b) but later admitted to telling her, "Who the fuck do you think you're talking to?" He made this statement as § 87(2)(b) was calling him and his partner racial epithets and did so due to his past experience in which he has had difficulty arresting females because they do not realize they can be placed under arrest. PO Chatterton could not recall if he said, "Don't fuck with me" and did not hear any other officer make this statement.

PO McLeish assisted him in the arrest. Sgt. Santos was in the room during the altercation, but did not assist. Sgt. Santos called for assistance and Lt. Craig Demaio and another officer whose identity PO Chatterton could not recall, entered the residence. Lt. Demaio assisted the officers in pulling one of § 87(2)(b) arms out from under her chest and § 87(2)(b) was handcuffed and

was transported to the 79<sup>th</sup> Precinct stationhouse. PO Chatterton did not notice any injuries on § 87(2)(b) aside from the bruise on her face. She complained of swelling on her wrists due to the handcuffs.

**Witness Officer: PO KEVIN MCLEISH**

- *PO McLeish, § 87(2)(b) old at the time of the incident, is a black male who is 5'4" tall, weighs 158 pounds and has brown hair and blue eyes.*
- *On May 9, 2011, PO McLeish was assigned to patrol of Sectors C, H, N and P from the hours of 7:05 a.m. to 3:40 p.m. PO McLeish was accompanied by PO Keith Chatterton and was assigned to a marked police vehicle.*

**Memo Book**

At 8:26 a.m., PO McLeish received a call involving a female being assaulted at § 87(2)(b). At 8:29 a.m., he arrived at the location. At 9:00 a.m., PO McLeish noted that § 87(2)(b) refused to be handcuffed by shouting and fighting with the officers. § 87(2)(b) continued to resist and had to be taken to the ground. The memo book entry reads, "Defendant claimed injury to her wrists and my partner called her a dirty black bitch." At 9:26 a.m., § 87(2)(b) was placed under arrest (encl. 15A-15C).

**CCRB Testimony**

On July 15, 2011, PO McLeish was interviewed at the CCRB (encl. 16A-16C). PO McLeish stated that when he handcuffed one of § 87(2)(b) wrists, she began to twist her body and move her free arm to prevent it from being handcuffed. PO McLeish did not recall if PO Chatterton said, "I should call ACS and get your fucking kids taken away." PO Chatterton did not say "Don't fuck with me," "Get this black bitch out of here," or "Who the fuck do you think you're talking to?" PO McLeish was shown his memo book entry, which states: "Defendant claimed injury to her wrists and my partner called her a dirty black bitch." PO McLeish clarified that he meant to indicate that § 87(2)(b) had alleged that PO Chatterton called her a "black bitch" and not that PO Chatterton had actually made this statement. PO Chatterton did not say "black bitch" at any point during the incident. PO Chatterton did say, "Give me your hands, bitch" as § 87(2)(b) continued to resist arrest.

§ 87(2)(b) fell onto a couch as she attempted to pull away from the officers. None of the officers pushed § 87(2)(b) onto the couch. PO McLeish could not recall which way § 87(2)(b) landed on the couch. As the officers attempted to gain control of her arms, § 87(2)(b) fell onto the ground and both officers linked both loose ends of the handcuffs on each arm. PO Chatterton did not make any physical contact with the defendant's face.

Only PO McLeish and PO Chatterton interacted physically with § 87(2)(b) in handcuffing her. § 87(2)(b) complained of an injury to her wrists. PO McLeish initially stated that he did not note any injuries on § 87(2)(b) but later stated that he noticed redness on her wrists.

**Witness Officer: SGT. VALERIE SANTOS**

- *Sgt. Santos, § 87(2)(b) old at the time of the incident, is an Asian/Pacific Islander female who is 5'4" tall, weighs 125 pounds and has light brown hair and brown eyes.*
- *On May 9, 2011, Sgt. Santos was assigned to duty as patrol supervisor in uniform from the hours of 6:55 a.m. to 3:52 p.m. Sgt. Santos was accompanied by PO Dennis Walsh and was assigned to marked police vehicle 3214.*

### **Memo Book**

At 8:59 a.m., Sgt. Santos responded to a call requesting an additional unit made by Sector C at § 87(2)(b). At 9:30 a.m., Sector C made an arrest (encl. 17A-17D).

### **CCRB Testimony**

On July 26, 2011, Sgt. Santos was interviewed at the CCRB (encl. 18A-18B). Upon her arrival, the only officers present were PO McLeish and PO Chatterton. Sgt. Santos did not hear any officer say, "I should call ACS and get your fucking kids taken away" and she did not make this statement.

Sgt. Santos could not recall which officer made contact with § 87(2)(b) first. § 87(2)(b) pushed and pulled away from the officers and flailed her arms to prevent the officers from handcuffing her. Sgt. Santos did not see any officer present tell § 87(2)(b) "Don't fuck with me," "Get this black bitch out of here," any variation of this statement, or "Who the fuck do you think you're talking to?"

In the process of struggling, § 87(2)(b) lost her balance and fell onto a couch in the room. None of the officers pushed her onto this couch. Sgt. Santos could not recall if § 87(2)(b) struck her face on the couch or the position of the officers while she was on the couch. She could not recall if § 87(2)(b) fell onto the floor at any point. PO Chatterton did not make contact with § 87(2)(b) face while she was on the couch and he did not punch her in the face.

§ 87(2)(b) had been handcuffed and the situation was under control by the time additional officers entered the residence. Sgt. Santos did not observe any injuries on the defendant and the defendant did not complain of any.

### **Medical Records**

In the pre-arraignment screening form from the date of the incident, § 87(2)(b) notes that she has sustained injuries: pain to her wrists and swelling on her right cheek. (encl. 19A-19B).

A subpoena request sent to § 87(2)(b) was returned showing negative results regarding § 87(2)(b) being treated on this date. On August 15, 2011, § 87(2)(b) medical records department was called by telephone and it was confirmed that § 87(2)(b) had not received treatment on the incident date.

### **NYPD Documents**

#### **SPRINT and SPRINT Communications CD**

The SPRINT and SPRINT Communications CD (encl. 21A-21B) for report § 87(2)(b) show that at 8:24 a.m., § 87(2)(b) called 911 and asked police and EMS to respond to § 87(2)(b) after being assaulted by a tenant. At 8:27 a.m., the operator relayed the information to Sector 79 C. At 8:30 a.m., Sector 79 E arrives followed shortly after by 79 C. 79 E resumes patrol at 8:40 a.m. At 8:51 a.m., 79 C requests a sergeant, non-emergency, to the scene. A sergeant arrives at 9:24 a.m. At 9:25 a.m., Sector 79 D and a lieutenant arrive on the scene. At 9:26 a.m., 79 D reports one arrest. At 9:47 a.m., 79 D notes that they are transporting a female.

#### **Medical Treatment of Prisoner Report**

The Medical Treatment of Prisoner Report shows that § 87(2)(b) claimed injury to her wrists after resisting arrest. It is noted that § 87(2)(b) was taken to § 87(2)(b) at § 87(2)(b). Attending physician § 87(2)(c) noted that § 87(2)(b) did not wish to be seen (encl. 24).

### **Command Log**

§ 87(2)(b) was brought to the 79<sup>th</sup> Precinct stationhouse at 9:32 a.m. “Arm pain (right arm)” is listed under “Physical/Mental Condition” (encl. 25).

### **Domestic Incident Report**

The domestic incident report, in which § 87(2)(b) is listed as the victim, states that officers responded to an assault in progress at § 87(2)(b) § 87(2)(b) claimed to have gotten into a verbal dispute with § 87(2)(b) who grabbed her by the hair and punched her body. § 87(2)(b) refused medical attention at the scene and § 87(2)(b) was arrested. Sgt. Santos is listed as being present at the scene (encl. 27A-27B).

### **Other Evidence**

#### **Photographs**

On May 10, 2011, § 87(2)(b) took eight photographs of the injuries she sustained during the incident (encl. 12A-12H). On June 2, 2011, § 87(2)(b) emailed copies of the photographs to the undersigned investigator and they were each labeled “photo” 1 through 8. The photographs were taken with poor lighting and it is difficult to discern any apparent injuries.

On June 16, 2011, the undersigned investigator called the 79<sup>th</sup> Precinct stationhouse and spoke with Sgt. James Phelan, who was mentioned by PO Chatterton as having taken photographs of § 87(2)(b) on the incident date. Sgt. Phelan stated that he recalled photographs being taken of § 87(2)(b) but that they had been deleted due to the length of time that had passed and that no copies were available. He stated that copies may have been faxed to IAB. On June 17, 2011, the IAB Liaison Unit was called and Det. Kyra Houston confirmed that IAB was not in possession of any photographs related to § 87(2)(b) complaint.

### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of September 13, 2011, with regard to the incident (encl. 28).

### **Civilian Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]

### **Civilian CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 5).

### **Subject Officer CCRB History**

- PO Chatterton has been a member of the service for eleven years and there is one substantiated allegation against him (encl. 4A-4B).
  - In case 200508075, PO Chatterton received a recommended disposition of instructions for an allegation of Abuse- Retaliatory arrest. The NYPD disposition resulted in instructions.

## Conclusion

### Officers Not Interviewed

Lt. Craig Demaio, Sgt. Santos' partner, PO Dennis Walsh and the officers from Sector D, PO Eon Thompson and PO Cindy Huggins were not interviewed § 87(2)(g)

### Identification of Subject Officer

PO Chatterton was identified as the subject officer after his memo book was received on June 14, 2011, in which PO Chatterton admits to placing § 87(2)(b) against a couch and calling her a bitch. PO Chatterton reiterated this level of involvement during his CCRB interview.

### Allegation A- Discourtesy: PO Keith Chatterton spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) alleged that during the incident, PO Chatterton said, "Don't fuck with me," and "Who the fuck do you think you're talking to?" PO Chatterton admitted to saying, "Who the fuck do you think you're talking to?" as well as telling § 87(2)(b) "Stop being a bitch." PO McLeish stated that PO Chatterton told § 87(2)(b) "Give me your hands bitch." PO Chatterton stated that he called § 87(2)(b) a bitch out of frustration and said, "Who the fuck do you think you're talking to?" when § 87(2)(b) began to call him and PO McLeish racial epithets. When asked why he had said, "Who the fuck do you think you're talking to?", PO Chatterton explained that it was because of prior difficult experiences arresting females.

NYPD V. Court OATH Index No. (79627/04), states that use of an impolite word, including profanity, to maintain control of a situation during a stressful street encounter is permissible (encl. 1A-1J).

§ 87(2)(g)

### Allegation B- Offensive Language: PO Keith Chatterton made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) alleged that PO Chatterton said, "Get this black bitch out of here." PO Chatterton was candid in admitting to using other profanity against § 87(2)(b) in his memo book and sworn statement, but denied using the words "black bitch." PO McLeish also denied PO Chatterton made this statement. Although PO McLeish's memo book entry notes PO Chatterton as calling § 87(2)(b) a "dirty black bitch," PO McLeish stated that his intention had been to note § 87(2)(b) allegation, and not PO Chatterton's actual statement.

PO § 87(2)(g)



**Allegation C- Abuse of Authority: PO Keith Chatterton threatened to notify Administration for Children’s Services.**

§ 87(2)(b) alleged that PO Chatterton stated, “I should call ACS and get your fucking children taken away.” Patrol Guide Section 215-01 (encl. 2) states that ACS must be notified in cases involving dependent children when a relative or friend of the caretaker is unavailable.

PO Chatterton denied making the specific alleged statement, although he did inform § 87(2)(b) that ACS would be called to take custody of her two infant children if no one could be found to watch them. PO McLeish and Sgt. Santos denied hearing any officer make the specific aforementioned statement.

§ 87(2)(g)

**Allegation D- Force: PO Keith Chatterton used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that as she was being arrested, PO Chatterton pushed her onto a couch and made contact with her face with a closed fist. § 87(2)(b) described herself as § 87(2)(g)

verbally challenging PO Chatterton and moving her body and head once on the couch. § 87(2)(g) two handcuffs had to be used in arresting § 87(2)(b) and backup was called by Sgt. Santos § 87(2)(g)

§ 87(2)(g)

When speaking to IAB, she stated that PO Chatterton struck her with a closed fist, while describing the action as a “nudge” in her CCRB statement. When speaking to IAB, she described the injury she sustained under her right eye as a bruise, while she described the injury as constituting redness when speaking to the CCRB.

PO Chatterton and the other officers described § 87(2)(b) falling onto the couch after resisting arrest but denied her being pushed. § 87(2)(g)

All of the officers denied PO Chatterton made physical contact with § 87(2)(b) face. The officers described the force used to subdue § 87(2)(b) as consisting of PO Chatterton and McLeish attempting to hold § 87(2)(b) arms behind her back in order to handcuff her.

According to Patrol Section 203-11 (encl. 3A-3B), an officer must use the “minimum necessary force” in arresting an individual.

§ 87(2)(g)

Team: 5

Investigator:	_____	Bernardo Gutierrez	5/16/12
	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date